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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,907	12/16/2003	Frank Markus Rinderknecht	P24671	3889

7055 7590 07/05/2006

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EXAMINER

KEENAN, JAMES W

ART UNIT PAPER NUMBER

3652

DATE MAILED: 07/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/735,907

Applicant(s)

RINDERKNECHT, FRANK
MARKUS

Examiner

James Keenan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-17 and 19-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-17 and 19-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10/14/05 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 14-17 and 19-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Although applicant's amendments do somewhat help to overcome the rejection and are appreciated, independent claims 14, 17, 19, and 28-30 continue to be indefinite. A complete and operative device is not set forth. The connecting bridges 45 and 46 form the claimed swivel yokes with swivel arms pairs 40, 41 and 42, 43, respectively (see figure 6). The connection pieces 47, 48, however, form the claimed parallelogram swivel arm structures with swivel arm pairs 40, 42, and 41, 43, respectively. Thus, the same pairs of swivel arms do not form both the swivel yokes and the parallelogram swivel arm structures. However, the claims make no such distinction and merely require that the same generic swivel arms to form both the yokes and the parallelogram structures. It is suggested that applicant claim first and second pairs of swivel arms, wherein each pair of arms forms each of the yokes, and one arm of each of the pairs forms each of the parallelogram structures.

In claims 19 and 30, it is not understood how "said one of a curved and bent section" can be "formed by said ... connection piece" if the swivel arm is set forth as "comprising one of a curved and bent section". Re applicant's comments, the problem is not that the feature is improperly disclosed, but simply that the curved or bent section is

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not formed by one of the connection pieces, because the connection pieces are not part of the swivel arms.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 17, 22, 24, 25, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thatcher (US 3,276,610) in view of Zatylny (US 4,687,402).

Thatcher, as noted in the previous Office action, shows swivel arms 26 connected to bridge 30 to form a swivel yoke, and swivel arms 88 connected to arms 26 by connection pieces 80 to form parallelogram structures, but the arms are not longitudinally adjustable.

Zatylny show a similar lifting device wherein swivel arms 25 are longitudinally adjustable not only by being telescopic along their length but also by being movable relative to and along the longitudinal axis of the vehicle bed.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have modified the apparatus of Thatcher such that the swivel arms were longitudinally adjustable in one or both ways taught by Zatylny, as this would improve loading by allowing greater flexibility in the size and shape of articles to be lifted and/or their distance from the vehicle bed to be altered.

Also, Thatcher shows only a single connecting bridge between arms 26.

Nevertheless, it would have been obvious for one of ordinary skill in the art at the time of the invention to have additionally modified the apparatus of Thatcher by adding another connecting bridge between arms 88, as the mere duplication of parts has been held to involve only routine skill in the art and would improve the strength and rigidity of the device.

Re claim 29, it would have been obvious for one of ordinary skill in the art at the time of the invention to have modified the apparatus of Thatcher such that the swivel axes lie on different heights relative to the bed, as this would merely be an alternate equivalent design expediency which would require no undue experimentation nor produce unexpected results.

5. Claims 19, 20, 23, 26, 27, and 30, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Thatcher in view of Olson (US 2,689,053, previously of record).

Thatcher does not show the swivel arm to form a bent or curved section.

Olson shows a similar lifting system with bent/curved arms 21.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have modified the apparatus of Thatcher such that the swivel arms formed a curved or bent section, as shown by Olson, as this would simply be the substitution of a well known feature in the same environment. The limitation that the curved or bent

section is formed by the connection piece is given no patentable weight as it contradicts other claim limitations, as noted above in the 112/2nd paragraph rejection.

The addition of a second connecting bridge between arms 88 of Thatcher would have been obvious for the same reasons set forth above in paragraph 4.

6. Claims 14-16, 21, and 28 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

7. Applicant's arguments filed 4/20/06 have been fully considered but they are not persuasive.

Applicant argues that Thatcher shows connecting bridge 30 between arms 26 but no connecting bridge between arms 80. While this is technically correct, the addition of a brace or "bridge" between these arms is considered an obvious design expediency, as noted above.

Applicant also argues that there is no motivation or rationale to combine the references. However, Zatylny specifically states that the telescopic arms enable the position of the load to be varied, either from where it is picked up or dropped off the ground (col. 4, lines 1-4) or to where it is placed on the vehicle bed (col. 4, lines 16-20). Furthermore, figure 1 clearly shows the ability to pick up different sizes and shapes of loads. These are the same reasons set forth by the examiner.

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8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

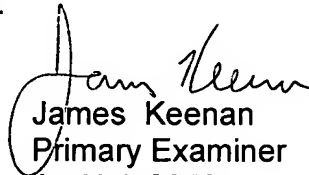
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Keenan whose telephone number is 571-272-6925. The examiner can normally be reached on (schedule varies).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eillen Lillis can be reached on 571-272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


James Keenan
Primary Examiner
Art Unit 3652

jwk
6/27/06